



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPR CNC OPC

Introduction:

This was an application by the tenant to cancel Notices to End the Tenancy, one for unpaid rent dated November 15, 2015 to be effective November 25, 2015 and one for cause dated November 20, 2015 to be effective December 31, 2015. Both parties were present at the hearing and confirmed service of each other's documents.

Issues: Is the tenant entitled to any relief?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. It is undisputed that the tenancy began about 2 years ago. The current rent is \$750. The landlord said the tenant claims they paid a security deposit of \$375 and a pet damage deposit of \$200 but she has no record of this. The manager said she took over the job in February 2015.

The landlord served the Notice to End Tenancy pursuant to section 46 for unpaid rent and also a Notice to End Tenancy for cause. Among the causes stated were:

- a) The tenant is repeatedly late in paying rent;
- b) The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and is putting the landlord's property at significant risk;

The landlord said that \$375 rent was owed when the Notice to End Tenancy for unpaid rent was issued and the male tenant has not paid rent since. The female tenant has her portion of the rent forwarded from the Ministry but this was not paid either for January 2016.

The female tenant gave evidence that her portion of the rent was paid. She said the male tenant had been given leave from his work in a food storage company because he had bed bug marks on his body. This was a problem due to health regulations. She said the ongoing bed bug problem has not been properly addressed by the landlord and has caused them to lose income and many items.

The landlord said that she tried to address the bed bug issue as soon as she heard about it. They have sprayed twice but the tenants are reluctant to allow them in to spray. She said she was punched by the male tenant when trying to enter. She said the tenants say the bugs jump off the floor and bite them but this is more typical of fleas, not bed bugs, and the tenants have dogs. The tenant said the landlord was coming in while they were still in bed and the male tenant simply put her back out. They had no notice.

Analysis:

The Notice to End Tenancy served on November 15, 2015 is based on unpaid rent pursuant to section 46 of the Act. The *Residential Tenancy Act* permits a tenant to apply to have the Notice set aside where the tenant disputes that rent is owed or where the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from the rent. Although the tenant disputed the Notice in time, I find none of their complaints constitute valid reasons to withhold rent. They have outstanding rent since November 2015. Section 26 of the Act requires tenants to pay their rent when due whether or not a landlord is fulfilling his obligations. I therefore dismiss the tenants' application to cancel the Notice to End the Tenancy. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 46 and has upheld the Notice. The landlord has made this request at the hearing. As a result I grant the landlord an Order for Possession effective January 21, 2016 as requested. I find this is a joint tenancy and each party is jointly and severally liable under the lease so the Order of Possession applies to both tenants.

As the section 46 Notice to End Tenancy has resulted in an Order of Possession, I find it is irrelevant to consider the Notice to End Tenancy for cause.

Conclusion:

I grant the landlord an Order for Possession effective January 21, 2016. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application. There was no filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 14, 2016

Residential Tenancy Branch

